

REMARKS

The Final Office Action dated September 1, 2009 has been carefully considered. Applicant has carefully studied the reasoning set forth in the Office Action and respectfully requests clarification to see whether Appeal is ripe or to better understand the rationale for the remaining rejection of a few claims; or alternatively, that the Examiner withdraw the rejections that have been advanced based on technical and substantive grounds.

First, Applicant does wish to extend appreciation that the majority of claims, including claims 5 and 14-25 are indicated to be allowed and further that 3 and 13 would be allowed if rewritten into independent form. Accordingly, only a few claims are at issue. As such Applicant would respectfully invite the Examiner to call the undersigned patent attorney to try and work out a suitable agreement as to the claims and/or slight amendment if there is something in claim 1 that the Examiner and Applicant are interpreting differently, as it appears that this application should be in condition for allowance without the need for additional prosecution.

First on technical grounds, it is noted that an obviousness rejection has been raised against claims 1, 2, 4, 8, 10 and 12. As a consequence, the Examiner expressly acknowledges the fact by asserting a § 103 that not all limitations of claim 1 are satisfied by Borsdorf. However, the Office Action is silent as to which limitation of claim 1 the Examiner believes is missing; and provides no reasoning to make any alleged modification of Borsdorf relative to these claims. As a consequence, considering any obviousness rejection must include a statement of the reasoning for making the alleged modifications, the obviousness rejection is facially deficient and fails to even satisfy the basic conditions for asserting a *prima facia* case of obviousness. Rather than issuing a new Office Action or possible reversal on Appeal due to this clear technical issue, Applicant would invite the Examiner to call the undersigned to try and work out a suitable agreement and thereby avoid further prosecution.

Relative to the merits, it is not seen that Borsdorf teaches the claim limitation of claim 1 reciting "wherein the non-linear tapered section comprises a continuously increasing diameter formed by a circular cross section over a plurality of inches." To aid in the argument, Applicant has attached at Exhibits 1, 2 and 3 edited versions of Fig. 1 of Borsdorf. Importantly, Borsdorf only relates to a tapered tip for a threaded stem or stub for the tip of the

cue. Clearly as shown in Exhibit 1 and assuming that the drawings of Borsdorf are to scale (a burden which would be borne by the Examiner), Borsdorf does not show the non-linear tapered section "over a plurality of inches". Clearly after one inch from the tip as shown in a mock up of Exhibit 1, there is a very constant linear taper. Further, as can readily be seen with reference to Exhibit 2, even the more sharply tapered tip end within the first inch is actually a linear taper as well. Thus, there is not seen to be non-linearity disclosed whatsoever. By asserting a § 103 rejection rather than a § 102, it is believed that the Examiner recognizes this fact, but there is no reasoning to make a linear taper non-linear and there is no reason to do so relative to Borsdorf which only relates to a removable cue tip that can be screwed on and off. Consequently, Applicant respectfully requests the § 103 rejections that have been advanced be withdrawn and/or clear clarification from the Examiner on the issues presented. Again, it may be most efficient and expeditious on both the Applicant and Examiner's part to simply have an interview to reach an agreement if there is some concern that has been overlooked or not understood by the Applicant; and as such, Applicant would invite a call from the Examiner if the rejections are not to be withdrawn outright.

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Extension of Time and Fee Deficiency

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition and fee for extension of time. If any additional fee is

In re Appln. Of: Chris Henri
Application No.: 10/580,527

required, or any overpayment is made, in connection with this communication please charge or credit deposit account No. 50-3505.

Respectfully submitted,

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